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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,151	06/13/2001	Anders Stenberg	010315-104	4114

7590

05/30/2003

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,151

Applicant(s)

STENBERG, ANDERS

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12/16/02 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wetness indicator in direct contact with the absorbent body must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noticed that in all drawings the wetness indicator (9) is always between the backsheet and the strip (10).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has added that the wetness indicator is in direct contact with the absorbent body, however the specification, nor the drawings show this feature, they say the wetness indicator can be adjacent the strip, but

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even on top of the strip is adjacent, and therefore does not necessarily mean it is in direct contact with the absorbent body.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has added that the wetness indicator is in direct contact with the absorbent body, however the specification, nor the drawings show this feature, they say the wetness indicator can be adjacent the strip, but even on top of the strip is adjacent, and therefore does not necessarily mean it is in direct contact with the absorbent body.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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8. With respect to Claim 3: the phrase “the strip is a differently colored or tinted part of the backsheet itself” is indefinite. Claim 1 states that the strip is a different color or tint from the backsheet, so if the strip is part of the backsheet, then how can it be a different color from itself?

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-11, 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell et al. (5,354,289).

11. With respect to Claims 1 and 14: Mitchell discloses the use of an absorbent article (10), a topsheet (14), backsheet (12) and core (16) located there between. Mitchell discloses the use of a strip (22) that is a polymeric film or tissue layer (column 7, lines 13-15) and where the backsheet is transparent or translucent (column 8, lines 21-23), therefore being that a polymeric film and a tissue layer will inherently have a color, and the backsheet can be transparent or translucent (an absence of color), then the strip has a different color or tint than the backsheet. Mitchell discloses the use of a wetness indicator (24) located on the inside of the article and disposed on the strip (See Figures 2-4), and is visible through the backsheet (column 8, lines 19-21). In which the strip will turn from a light yellow to a dark blue color (column 8, lines 15-19).

12. With respect to Claims 2 and 3: Mitchell discloses the strip (24) is a separate piece of material from the backsheet, and is adhered to the backsheet using a hot melt adhesive (column

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5, lines 36-46). The examiner considers this to mean the strip 22 is essentially part of the backsheet and therefore as disclosed above a different color.

13. With respect to Claims 4 and 15: the indicator goes through a perceptible change when wetted (column 6, lines 66-67), therefore the strip acts as a capacity monitor. The indicator will change color over a portion of its length, which is proportional to the quantity of deposited liquid, therefore is an indication of absorption. (See abstract). Furthermore the strip is an indication of product type, which is a wetness indicating diaper (not all diapers are wetness indicating).

14. With respect to Claims 5 and 6: The strip of Mitchell, has a length and a width, therefore extends in the longitudinal and the transverse direction. (See Figure 2) It is well known in the art that when a diaper is packaged it is folded in the central crotch region. The strip of Mitchell is located in the central region of the article, therefore it extends in the transverse direction along where the article can be folded. (See Figure 2).

15. With respect to Claims 7 and 9-11: column 8 lines 26-29.

16. With respect to Claim 8: Mitchell discloses the word "Komfort" on the wetness indicating strip which is adjacent strip 24 (See Figure 2), therefore indicating that it is a "Komfort" type wetness indicating diaper.

17. With respect to Claim 13: See Figures 3 and 4.

18. With respect to Claim 16: The wetness indicator is a strip, which is a line, which the examiner considers a pattern (see Figures 2-5).

Response to Amendment

19. The amendment filed 12/16/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The applicant has added that the wetness indicator is in direct contact with the absorbent body, however the specification, nor the drawings show this feature, they say the wetness indicator can be adjacent the strip, but even on top of the strip is adjacent, and therefore does not necessarily mean it is in direct contact with the absorbent body.

Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

20. Applicant's arguments filed 12/16/02 have been fully considered but they are not persuasive.

21. The applicant's have argued the strip and the wetness indicator are two different items: This was not clear in the previous claims, and newly amended claims recite them as two different item. The rejection has been modified to claim the strip and the wetness indicator as two different strips (See above rejection).

22. With respect to Applicant's arguments that the wetness indicator is not in a pattern: Mitchell discloses the wetness indicator in a strip, which as explained above, the applicant considers a strip to be a line, which is a pattern.

23. With respect to Applicant's arguments that Mitchell does not disclose the strip being a different tint than the backsheet and attached on the inside of the article: See rejection above,

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Mitchell discloses the strip 22 being attached to the backsheet at the top and at the bottom and it is clearly on the inside of the diaper. With regards to the strip being a different color or tint, see the modified rejection above for explanation.

24. With respect to Applicant's arguments that the color or tint of the strip of Mitchell does not indicate a product type, size or absorption capacity: As clarified above, the strip indicates that it is a wetness indicating diaper, which is a product type.

25. The remaining arguments are based on the fact that the previous rejections were based on the strip and wetness indicator not being separate, however the claims as previously written, this was not required. The rejection is modified to reflect this new limitation, therefore arguments are moot.

Conclusion

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw
May 23, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700